

Message Text

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EO 11652: NA

TAGS: IAEA, GW, BR

SUBJECT: BRAZIL/IAEA/FRG TRILATERAL SAFEGUARDS AGREEMENT

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SUMMARY: FOLLOWING IS TEXT OF BRAZIL/IAEA/FRG TRILATERAL SAFEGUARDS TRANSFER AGREEMENT AND COVERING MEMO BY DG TO BOARD OF GOVERNORS, AS SET FORTH IN DOCUMENT GOV/1769 DATED FEBRUARY 2, WHICH WILL BE CONSIDERED BY BG AT ITS SESSION BEGINNING FEBRUARY 24. DOCUMENT IS FOR OFFICIAL USE ONLY. UNNECESSARY "THE"'S DELETED. COMMENTS FOLLOW SEPTTEL SHORTLY. END SUMMARY.

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MEMORANDUM BY THE DIRECTOR GENERAL

1. THZ GOVERNMENTS OF FEDERATIVE REPUBLIC OF BRAZIL
AND FEDERAL REPUBLIC OF GERMANY SIGNED ON 27 JUNE 1975
AN "AGREEMENT CONCERNING CO-OPERATION IN FIELD OF
PEACEFUL USES OF NUCLEAR ENERGY" WHICH ENTERED INTO

FORCE ON 18 NOVEMBER 1975. THAT AGREEMENT PROVIDES
FOR CO-OPERATION IN FIELDS SUCH AS PROSPECTING,
MINING AND PROCESSING OF URANIUM ORES, MANUFACTURE
OF NUCLEAR REACTORS AND OTHER NUCLEAR ENERGY
FACILITIES, URANIUM ENRICHMENT AND ENRICHMENT SERVICES,
FABRICATION OF FUEL ELEMENTY, REPROCESSING OF IRRADIATED
FUELS AND TRANSFER OF RELEVANT TECHNOLOGICAL INFORMA-
TION. DELIVERY OF TRANSFER OF ANY RELEVANT MATERIAL,
FACILITIES OR TECHNOLOGICAL INFORMATION IS SUBJECT

TO CONDITION THAT A SAFEGUARDS AGREEMENT HAS PREVIOUSLY BEEN
CONCLUDED WITH AGENCY. IN DECEMBER 1975,
THE GOVERNMENTS JOINTLY REQUESTED AGENCY TO
CONCLUDE AN AGREEMENT PROVIDING FOR APPLICATION OF
SAFEGUARDS TO NUCLEAR MATERIAL COVERED BY BILATERAL
AGREEMENT. A DRAFT OF SUCH AN AGREEMENT HAS
ACCORDINGLY BEEN NEGOTIATED AND IS SET FORTH IN ANNEX
HERETO.

2. DRAFT AGREEMENT CORRESPONDS IN SUBSTANCE WITH
OTHER TRILATERAL AGREEMENTS FOR APPLICATPON OF SAFE-
GUARDS BUT IT ALSO CONTAINS A NUMBER OF NEW ELEMENTS.

3. A NUMBER OF PROVISIONS IN DRAFT AGREEMENT RELATE
TO TRANSFER OF RELEVANT TECHNOLOGICAL INFORMATION.

ARRANGEMENTS FORESEEN MAY BE SUMMARIZED AS FOLLOWS:

(A) IN BASIS UNDERTAKING IN ARTICLE 2 AS WELL AS
THROUGHOUT THE AGREEMENT THE TRANSFER OF RELEVANT
TECHNOLOGICAL INFORMATION IS TREATED IN A MANNER
SIMILAR TO THAT USED FOR TRANSFER OF NUCLEAR
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FACILITIES AND EQUIPMENT. ANY NUCLEAR MATERIAL

PRODUCED, PROCESSED OR USED AS WELL AS ANY NUCLEAR
FACILITY DESIGNED, CONSTRUCTED OR OPERATED ON BASIS
OF OR BY USE OF TRANSFERRED RELEVANT INFORMATION
IS SUBJECT TO AGREEMENT SO THAT SAGEGUARDS WILL BE
APPLIED TO ALL NUCLEAR MATERIAL DERIVED FROM TRANS-

FERRED TECHNOLOGY. IN ORDER TO FACILITATE IMPLEMENTATION OF THIS GENERAL RULE AGENCY, PURSUANT TO ARTICLE 3, WILL RECEIVE A COMMUNICATION FROM TRANSFERRING STATE UPON FIRST TRANSFER OF "RELEVANT TECHNOLOGICAL INFORMATION" RELATING TO ANY ONE OF TECHNOLOGIES REFERRED TO IN THAT ARTICLE. THIS COMMUNICATION WILL CONTAIN AN ADEQUATE DESCRIPTION OF INFORMATION TRANSFERRED. IF WITHIN TWENTY YEARS AFTER EQUIPMENT IS DESIGNED, CONSTRUCTED OR OPERATED IN RECIPIENT STATE, THAT FACILITY OR EQUIPMENT SHALL BE DEEMED TO DERIVE FROM TRANSFERRED INFORMATION IF ITS DESIGN, CONSTRUCTION OR OPERATION IS BASED ON SAME OR ESSENTIALLY SAME PHYSICAL OR CHEMICAL PROCESS OR PROCESSES AS THAT WHICH HAD BEEN SPECIFIED BY TRANSFERRING STATE AND HAD BEEN COMMUNICATED TO AGENCY;

(B) AFTER COMMUNICATION REFERRED TO IN PARAGRAPH (A) ABOVE HAS BEEN MADE, AND PURSUANT TO ARTICLE 6.1, TRANSFERRING STATE WILL SEND AGENCY NOTIFICATIONS CONTAINING MORE PRECISE DESCRIPTIONS OF RELEVANT TECHNOLOGICAL INFORMATION TRANSFERRED. THESE DESCRIPTIONS WILL BE ENTERED IN A LIST TO BE ESTABLISHED BY AGENCY PURSUANT TO ARTICLE 7.2. ARTICLE 6.2 PROVIDES THAT RECIPIENT STATE SHALL BE RESPONSIBLE FOR NOTIFYING AGENCY OF ANY NUCLEAR FACILITY OR SPECIFIED EQUIPMENT WHICH IS BASED ON OR USES RELEVANT TECHNOLOGICAL INFORMATION IT HAS RECEIVED FROM OTHER STATE. HOWEVER TRANSFERRING STATE IS REQUIRED TO CONSULT PROMPTLY WITH RECIPIENT STATE IF TRANSFERRING STATE CONSIDERS UNCLASSIFIED

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THAT A NOTIFICATION SHOULD BE MADE BY RECIPIENT STATE TO AGENCY OF A FACILITY OR EQUIPMENT BECAUSE IT IS BASED ON OR USES TRANSFERRED INFORMATION. AGENCY IS TO BE INFORMED PROMPTLY IF THERE IS A DISAGREEMENT BETWEEN THE TWO STATES AS TO WHETHER A PARTICULAR PLANT OR PIECE OF EQUIPMENT SHOULD BE NOTIFIED TO AGENCY; AND

(C) IT WILL ALSO BE NOTED THAT UNDER ARTICLE 10.3

RELEVANT TECHNOLOGICAL INFORMATION MAY BE TRANSFERRED TO A THIRD STATE ONLY IF AGENCY HAS MADE ARRANGEMENTS TO APPLY SAFEGUARDS IN CONNECTION WITH USE OF INFORMATION TRANSFERRED.

4. BASIC UNDERTAKING IN ARTICLE 2 COVERS BOTH
NUCLEAR MATERIAL AND NUCLEAR FACILITIES. PURSUANT
TO ARTICLE 4, ONLY NUCLEAR MATERIAL WILL BE SUBJECT
TO SAFEGUARDS BUT RELEVANT PROVISION OF AGENCY'S
SAFEGUARDS DOCUMENT (INFCIRC/66/REV.2) WILL BE
APPLIED TO ALL NUCLEAR FACILITIES SUBJECT TO AGREEMENT.
SPECIFIED EQUIPMENT AND SPECIFIED MATERIAL ARE NOT
SUBJECT AS SUCH TO BASIC UNDERTAKING IN ARTICLE 2 OR
TO SAFEGUARDS PURSUANT TO ARTICLE 4 BUT THEY WILL BE

LISTED IN RELEVANT PART OF INVENTORY AS "TRIGGER
ITEMS" ANDY ANY NUCLEAR MATERIAL PRODUCED, PROCESSED
OR USED ON BASIS OF OR BY USE OF SUCH EQUIPMENT
OR MATERIAL WILL BE SAFEGUARDED.

PURSUANT TO ARTICLE 15.2, MOREOVER, SUBSIDIARY
ARRANGEMENTS WILL CONTAIN SUCH PROCEDURES AS MAY
BE NECESSARY FOR MAINTAINING AND VERIFYING
CORRECTNESS OF INVENTORY WITH RESPECT TO SPECIFIED
EQUIPMENT AND SPECIFIED MATERIAL.

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6. PROVISIONS FOR RETRANSFER TO THIRD STATES
(ARTICLE 10.2) ARE IN ACCORDANCE WITH PREVIOUS
AGREEMENTS. TRANSFERS MAY BE MADE OF ITEMS LISTED ON
MAIN PART OF INVENTORY ONLY IF ARRANGEMENTS HAVE BEEN
MADE BY AGENCY TO APPLY SAFEGUARDS WITH RESPECT TO SUCH
ITEMS. MOREOVER, TRANSFER OF A SPECIFIC ITEM REFERRED
TO IN ARTICLE 10.2 AND ITS DELETION FROM INVENTORY
MAY TAKE PLACE ONLY AFTER JOINT NOTIFICATION HAS BEEN
MADE BY BOTH STATES. THIS REFLECTS CERTAIN REQUIREMENTS
IN BILATERAL AGREEMENT.

7. DRAFT AGREEMENT ALSO INCLUDES IN ARTICLE 19 AN
UNDERTAKING BY EACH GOVERNMENT TO KEEP
AGENCY INFORMED OF MEASURES IT WILL TAKE TO ENSURE THE
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PHYSICAL PROTECTION OF NUCLEAR MATERIAL, NUCLEAR
FACILITIES AND SPECIFIED EQUIPMENT.

8. ARTICLE 22 PROVIDES FOR CONSULTATIONS ON ANY
QUESTION ARISING OUT OF INTERPRETATION OR APPLICATION
OF AGREEMENT IF ANY OF PARTIES SO REQUEST.

9. ARTICLE 25 FORESEES THAT SUCH EXTENSIONS
OF SAFEGUARDS DOCUMENT AS MAY BE APPROVED BY BOARD
TO PROVIDE FOR SPECIAL SAFEGUARDS PROCEDURES IN
RESPECT OF ISOTOPE SEPARATION PLANTS WILL BE
APPLICABLE. SINCE CO-OPERATION BETWEEN TWO
GOVERNMENTS WILL EXTEND TO ENRICHMENT OF URANIUM,
IT WILL BE NECESSARY FOR AGENCY TO TAKE TIMELY STEPS
TO EXTEND SAFEGUARDS DOCUMENT BY ADDITION OF SPECIAL
PROCEDURES FOR PLANTS FOR ENRICHMENT OF URANIUM.

10. PROVISIONS IN ARTICLE 28, RELATING TO DURATION
OF DRAFT AGREEMENT, ARE IN CONFORMITY WITH REQUIRE-
MENTS SET FORTH IN DOCUMENT GOV/1621.

11. BECAUSE ONE OF TWO STATES IS A PARTY TO THE
TREATY ON NON-PROLIFERATION OF NUCLEAR WEAPONS (NPT)
(REPRODUCED IN DOCUMENT INFCIRC/140) AND TO AGREEMENT
OF 5 APRIL 1973 CONCLUDED BY AGENCY WITH
EUROPEAN ATOMIC ENERGY COMMUNITY AND STATES CONCERNED

UNDER ARTICLE III.1 AND 4 OF NPT (REPRODUCED IN DOCUMENT INFCIRC/193), APPLICATION OF SAFEGUARDS IN THAT STATE WILL, PURSUANT TO ARTICLE 29 OF DRAFT AGREEMENT, BE SUSPENDED AS LONG AS AGREEMENT OF 5 APRIL 1973 REMAINS IN FORCE.

1. COSTS WILL BE INCURRED IN IMPLEMENTING DRAFT AGREEMENT WHEN FIRST ITEMS SUBJECT TO IT ARE TRANSFERRED TO OR CONSTRUCTED IN BRAZIL (AGENCY'S SAFEGUARDS OPERATIONS IN FEDERAL REPUBLIC OF GERMANY WILL BE BASED ON AGREEMENT SET FORTH IN DOCUMENT INFCIRC/193). THESE COSTS WILL DEPEND ESSENTIALLY UPON SCOPE AND RATE OF SUBSEQUENT IMPLEMENTATION OF BILATERAL AGREEMENT. SECRETARIAT IS NOT ABLE TO PROVIDE INFORMATION ON THESE POINTS
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AT THIS TIME. HOWEVER, IT IS NOT FORESEEN THAT THERE WILL BE ANY READILY IDENTIFIABLE ADDITIONAL COSTS DURING NEXT FEW YEARS. WHEN INFORMATION IS AVAILABLE THAT WOULD PERMIT AN ESTIMATE OF COSTS SECRETARIAT WILL BRING MATTER TO NOTICE OF BOARD.
RECOMMENDED ACTION BY THE BOARD

13. BOARD IS RECOMMENDED TO AUTHORIZE DIRECTOR GENERAL TO CONCLUDE WITH GOVERNMENT OF FEDERATIVE REPUBLIC OF BRAZIL AND GOVERNMENT OF FEDERAL REPUBLIC OF GERMANY AND SUBSEQUENTLY TO IMPLEMENT PROPOSED SAFEGUARDS AGREEMENT OF WHICH DRAFT IS ANNEXED.

ANNEX

DRAFT AGREEMENT OF.....1976 BETWEEN INTERNATIONAL ATOMIC ENERGY AGENCY, GOVERNMENT OF FEDERATIVE REPUBLIC OF BRAZIL AND GOVERNMENT OF FEDERAL REPUBLIC OF GERMANY FOR APPLICATION OF SAFEGUARDS
WHEREAS GOVERNMENT OF FEDERATIVE REPUBLIC OF BRAZIL AND GOVERNMENT OF FEDERAL REPUBLIC OF GERMANY HAVE CONCLUDED AN AGREEMENT CONCERNING CO-OPERATION IN FIELD OF PEACEFUL USES OF NUCLEAR ENERGY ON 27 JUNE 1975 (HEREINAFTER REFERRED TO AS "THE BILATERAL AGREEMENT");
WHEREAS INTERNATIONAL ATOMIC ENERGY AGENCY (HEREINAFTER REFERRED TO AS "THE AGENCY") IS AUTHORIZED BY ITS STATUTE TO APPLY SAFEGUARDS, AT THE REQUEST OF PARTIES, TO ANY BILATERAL OR MULTILATERAL ARRANGEMENT;
WHEREAS GOVERNMENT OF FEDERATIVE REPUBLIC OF BRAZIL AND GOVERNMENT OF FEDERAL REPUBLIC OF GERMANY HAVE REQUESTED AGENCY TO APPLY ITS SAFEGUARDS TO NUCLEAR

MATERIAL SUPPLIED, TRANSFERRED OR PRODUCED UNDER
BILATERAL AGREEMENT;
WHEREAS BOARD OF GOVERNORS OF AGENCY (HEREINAFTER
REFERRED TO AS "THE BOARD") HAS ACCEDED TO THAT RE-
QUEST ON.....;
NOW THEREFORE, AGENCY, GOVERNMENT OF FEDERATIVE
REPUBLIC OF BRAZIL AND GOVERNMENT OF FEDERAL
REPUBLIC OF GERMANY HEREBY AGREE AS FOLLOWS:
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PART I
DEFINITIONS
ARTICLE 1

FOR THE PURPOSE OF THIS AGREEMENT:

(Q) "INSPECTORS DOCUMENT" MEANS THE ANNEX TO AGENCY
DOCUMENT GC(V)/INF/39;

(B) "NUCLEAR FACILITY" MEANS:

(1) A PRINCIPAL NUCLEAR FACILITY AS DEFINED IN
PARAGRAPH 78 OF THE SAFEGUARDS DOCUMENT AS
WELL AS A CRITICAL FACILITY OR A SEPARATE
STORAGE INSTALLATION; OR

(2) ANY LOCATION WHERE NUCLEAR MATERIAL IN AMOUNTS
GREATER THAN ONE EFFECTIVE KILOGRAM IS
CUSTOMARILY USED;

(C) "NUCLEAR MATERIAL" MEANS ANY SOURCE OR SPECIAL
FISSIONABLE MATERIAL AS DEFINED IN ARTICLE XX OF
AGENCY'S STATUTE;

(D) "RELEVANT TECHNOLOGICAL INFORMATION" MEANS
INFORMATION DESIGNATED AS SUCH BY EITHER CONTRACTING
GOVERNMENT TRANSFERRING SUCH INFORMATION ON DESIGN,
CONSTRUCTION OR OPERATION OF A NUCLEAR FACILITY OR
SPECIFIED EQUIPMENT OR ON PREPARATION, USE OR
PROCESSING OF NUCLEAR MATERIAL OR SPECIFIED MATERIAL,
IN ALL FORMS IN WHICH SUCH INFORMATION CAN BE
TRANSFERRED, BUT EXCEPTING TECHNOLOGICAL INFORMATION
AVAILABLE TO PUBLIC;

(E) "SAFEGUARDS DOCUMENT" MEANS AGENCY DOCUMENT
INFCIRC/66/REV.2;

(F) "SPECIFIED EQUIPMENT" MEANS ANY EQUIPMENT WHICH
IS ESPECIALLY DESIGNED OR PREPARED FOR PROCESSING,
USE OF PRODUCTION OF NUCLEAR MATERIAL OR SPECIFIED
MATERIAL;

(G) "SPECIFIED MATERIAL" MEANS ANY MATERIAL WHICH IS

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ESPECIALLY PREPARED FOR PROCESSING USE OR PRODUCTION
OF NUCLEAR MATERIAL.

PART II

UNDERTAKINGS OF CONTACTING GOVERNMENTS AND BY AGENCY

ARTICLE 2

GOVERNMENT OF FEDERATIVE REPUBLIC OF BRAZIL AND
GOVERNMENT OF FEDERAL REPUBLIC OF GERMANY UNDERTAKE
THAT NONE OF FOLLOWING ITEMS SHALL BE USED FOR
MANUFACTURE OF ANY NUCLEAR WEAPON OR TO FURTHER ANY
OTHER MILITARY PURPOSE OR FOR MANUFACTURE OF ANY
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OTHER NUCLEAR EXPLOSIVE DEVICE:

(1) NUCLEAR MATERIAL OR ANY NUCLEAR FACILITY TRANSFERRED FROM ONE OF SAID STATE TO OTHER;

(2) ANY NUCLEAR FACILITY WHICH IS DESIGNED, CONSTRUCTED OR OPERATED IN ONE OF SAID STATES ON BASIS OF OR BY USE OF RELEVANT TECHNOLOGIES INFORMATION TRANSFERRED FROM OTHER;

(3) NUCLEAR MATERIAL, INCLUDING SUBSEQUENT GENERATIONS OF PRODUCED SPECIAL FISSIONABLE MATERIAL, WHICH HAS BEEN PRODUCED, PROCESSED OR USED ON BASIS OF OR BY USE OF:

(A) ANY NUCLEAR FACILITY OR NUCLEAR MATERIAL REFERRED TO IN THIS ARTICLE;

(B) ANY OTHER ITEM REFERRED TO IN ARTICLE 7, PARAGRAPH 1; OR

(C) ANY RELEVANT TECHNOLOGICAL INFORMATION TRANSFERRED FROM ONE OF SAID STATES TO OTHER.

ARTICLE 3

1. THE CONTRACTING GOVERNMENT OF STATE CONCERNED, ON OCCASION OF FIRST TRANSFER OF RELEVANT TECHNOLOGICAL INFORMATION FROM THAT STATE TO OTHER, SHALL COMMUNICATE TO AGENCY AN ADEQUATE DESCRIPTION OF RELEVANT TECHNOLOGICAL INFORMATION TRANSFERRED IF INFORMATION RELATES TO ANY OF FOLLOWING AREAS

OF CO-OPERATION:

(A) PRODUCTION OF NUCLEAR MATERIAL COMPOUNDS OF A PURITY SUITABLE FOR USE IN FUEL CYCLE;

(B) MANUFACTURE OF NUCLEAR REACTORS, OTHER NUCLEAR FACILITIES OR THEIR COMPONENTS;
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(C) URANIUM ENRICHMENT;

(D) FABRICATION OF FUEL ELEMENTS; AND

(E) REPROCESSING OF IRRADIATED FUEL.

2. WITHOUT RESTRICTING THE GENERALITY OF ARTICLE 2,

ANY NUCLEAR FACILITY OR SPECIFIED EQUIPMENT
DESIGNED, CONSTRUCTED OR OPERATED, WITHIN A PERIOD
OF TWENTY YEARS AFTER COMMUNICATION MADE TO AGENCY
UNDER PARAGRAPH 1 ABOVE, IN STATE TO WHICH RELEVANT
TECHNOLOGICAL INFORMATION HAS BEEN TRANSFERRED SHALL
BE DEEMED TO BE DESIGNED, CONSTRUCTED OR OPERATED ON
BASIS OR OR BY USE OF TRANSFERRED RELEVANT TECHNOLOGI-
CAL INFORMATION IF ITS DESIGN, CONSTRUCTION OR

OPERATION IS BASED ON SAME OR ESSENTIALLY SAME
PHYSICAL OR CHEMICAL PROCESS OR PROCESSES AS THOSE
SPECIFIED, AND COMMUNICATED TO AGENCY IN ACCORDANCE
WITH PARAGRAPH 1 ABOVE, BY CONTRACTING GOVERNMENT OF
STATE FROM WHICH RELEVANT TECHNOLOGICAL
INFORMATION HAD BEEN TRANSFERRED.

ARTICLE 4

1. AGENCY UNDERTAKES TO APPLY SAFEGUARDS ON NUCLEAR
MATERIAL REFERRED TO IN ARTICLE 2 SO AS TO ENSURE AS FAR AS
IS IT ABLE THAT SUCH NUCLEAR MATERIAL IS NOT USED
FOR MANUFACTURE OF ANY NUCLEAR WEAPON OR TO FURTHER
ANY OTHER MILITARY PURPOSE OR FOR MANUFACTURE OF ANY
OTHER NUCLEAR EXPLOSIVE DEVICE. AGENCY SHALL ALSO
APPLY RELEVANT PROVISIONS OF SAFEGUARDS DOCUMENT TO
NUCLEAR FACILITIES REFERRED TO IN ARTICLE 2 WITH A
VIEW TO ASSURING EFFECTIVE APPLICATION OF SAFEGUARDS
ON NUCLEAR MATERIAL.

2. SAFEGUARDS SHALL NOT BE APPLIED IN MINING OR ORE
PROCESSING ACTIVITIES.

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ARTICLE 5

CONTRACTING GOVERNMENTS UNDERTWKE TO FACILITATE
APPLICATION OF SAFEGUARDS PROVIDED FOR IN THIS
AGREEMENT AND TO CO-OPERATE WITH AGENCY AND WITH
EACH OTHER TO THAT END.

PART III

INVENTORIES, LISTS AND NOTIFICATIONS

ARTICLE 6

1. CONTRACTING GOVERNMENT OF STATE FRM WHICH TRANS-
FER IS MADE SHALL NOTIFY AGENCY OF:

(A) ANY TRANSFER TO OTHER STATE OR NUCLEAR MATERIAL, A NUCLEAR FACILITY, SPECIFIED EQUIPMENT OR SPECIFIED MATERIAL;

(B) ANY TRANSFER TO OTHER STATE OF RELEVANT TECHNOLOGICAL INFORMATION.

2. ANY NUCLEAR FACILITY OR SPECIFIED EQUIPMENT WHICH IS DESIGNED, CONSTRUCTED OR OPERATED ON BASIS OF OR BY USE OF RELEVANT TECHNOLOGICAL INFORMATION TRANSFERRED FROM ONE STATE TO OTHER SHALL BE NOTIFIED TO AGENCY BY CONTRACTING GOVERNMENT OF STATE TO WHICH RELEVANT TECHNOLOGICAL INFORMATION HAD BEEN TRANSFERRED. CONTRACTING GOVERNMENT OF STATE FROM WHICH RELEVANT TECHNOLOGICAL INFORMATION HAD BEEN TRANSFERRED IS UNDER OBLIGATION TO CONSULT PROMPTLY OTHER CONTRACTING GOVERNMENT IF IN VIEW OF FORMER THERE IS REASON FOR A NOTIFICATION TO AGENCY UNDER THIS PARAGRAPH. CONTRACTING GOVERNMENTS SHALL JOINTLY OR SEVERALLY INFORM AGENCY PROMPTLY IF ANY DISAGREEMENT SHOULD ARISE BETWEEN THEM AS TO WHETHER A PARTICULAR NUCLEAR FACILITY OR SPECIFIED EQUIPMENT SHOULD BE NOTIFIED TO AGENCY IN ACCORDANCE WITH THIS PARAGRAPH.

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3. WHICHEVER CONTRACTING GOVERNMENT IS CONCERNED SHALL NOTIFY AGENCY OF ANY OTHER NUCLEAR FACILITY WHICH IS REQUIRED TO BE LISTED IN INVENTORY IN ACCORDANCE WITH ARTICLE 7, PARAGRAPH 1(B).

ARTICLE 7

1. AGENCY SHALL ESTABLISH AND MAINTAIN AN INVENTORY WITH RESPECT TO EACH OF SAID STATES. INVENTORY SHALL BE DIVIDED INTO THREE PARTS:

(A) THE MAIN PART OF EACH INVENTORY SHALL LIST:

(I) NUCLEAR MATERIAL, ANY NUCLEAR FACILITY, SPECIFIED EQUIPMENT AND SPECIFIED MATERIAL TRANSFERRED FROM OTHER STATE TO STATE CONCERNED;

(II) ANY NUCLEAR FACILITY AND SPECIFIED EQUIPMENT WHICH IS DESIGNED, CONSTRUCTED OR OPERATED IN STATE CONCERNED ON BASIS OF OR BY USE OF RELEVANT TECHNOLOGICAL

INFORMATION TRANSFERRED FROM OTHER STATE;

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(III) SPECIFIED MATERIAL WHICH HAS BEEN PREPARED OR PRODUCED
IN STATE CONCERNED ON BASIS OF OR BY USE OF SPECIFIED EQUIP-
MENT OR RELEVANT TECHNOLOGICAL INFORMATION TRANSFERRED
FROM OTHER STATE;

(IV) NUCLEAR MATERIAL, INCLUDING SUBSEQUENT GENERATIONS OF
PRODUCED SPECIAL FISSIONABLE MATERIAL, WHICH HAS BEEN PRODUCED,
PROCESSED OR USED IN STATE CONCERNED ON BASIS OF OR BY USE
OF ANY ITEM REFERRED TO IN MAIN PART OF INVENTORY OR ANY
RELEVANT TECHNOLOGICAL INFORMATION TRANSFERRED FROM OTHER
STATE.

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IF NUCLEAR MATERIAL HAS BEEN SUBSTITUTED FOR ANY NUCLEAR MATERIAL REFERRED TO IN (I) AND (IV) ABOVE IN ACCORDANCE WITH PARAGRAPH 25 OR 26(D) OF SAFEGUARDS DOCUMENT, SUBSTITUTED MATERIAL SHALL BE LISTED IN PLACE OF NUCLEAR MATERIAL REFERRED TO IN (I) AND (IV) ABOVE.

(B) THE SUBSIDIARY PART OF EACH INVENTORY SHALL LIST:

(I) ANY NUCLEAR FACILITY WHILE IT CONTAINS ANY SPECIFIED EQUIPMENT OR SPECIFIED MATERIAL LISTED IN MAIN PART OF INVENTORY;

(II) ANY NUCLEAR FACILITY WHILE IT CONTAINS, USES, FABRICATES, OR PROCESSES ANY NUCLEAR MATERIAL LISTED IN THE MAIN PART OF INVENTORY.

(C) INACTIVE PART OF EACH INVENTORY SHALL LIST ANY NUCLEAR MATERIAL WHICH WOULD NORMALLY BE LISTED IN MAIN PART OF INVENTORY BUT WHICH IS NOT SO LISTED BECAUSE:

(I) IT IS EXEMPT FROM SAFEGUARDS IN ACCORDANCE WITH PROVISIONS OF PARAGRAPH 21, 22 OR 23 OF SAFEGUARDS DOCUMENT; OR

(II) SAFEGUARDS THEREON ARE SUSPENDED IN ACCORDANCE WITH PROVISIONS OF PARAGRAPH 24 OR 25 OF SAFEGUARDS DOCUMENT.

2. AGENCY SHALL ALSO ESTABLISH AND MAINTAIN A LIST WITH RESPECT TO EACH RECIPIENT STATE CONTAINING A DESCRIPTION OF SUCH RELEVANT TECHNOLOGICAL INFORMATION AS HAS BEEN NOTIFIED UNDER ARTICLE 6, PARAGRAPH 1(B).

3. AGENCY SHALL SEND COPIES OF BOTH INVENTORIES AND OF LISTS REFERRED TO IN PARAGRAPH 2 ABOVE TO BOTH CONTRACTING GOVERNMENTS EVERY TWELVE MONTHS AND ALSO AT ANY OTHER TIMES SPECIFIED BY EITHER CONTRACTING GOVERNMENT IN A REQUEST COMMUNICATED TO AGENCY AT LEAST TWO WEEKS IN ADVANCE.

ARTICLE 8

1. NOTIFICATION PROVIDED FOR IN ARTICLE 6, PARAGRAPH 1(A) SHALL NORMALLY BE MADE TO AGENCY NOT MORE THAN TWO WEEKS

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AFTER NUCLEAR FACILITY, NUCLEAR MATERIAL, SPECIFIED EQUIPMENT OR SPECIFIED MATERIAL ARRIVES IN STATE CONCERNED, EXCEPT THAT SHIPMENTS OF SOURCE MATERIAL IN QUANTITIES NOT EXCEEDING ONE METRIC TON SHALL NOT BE SUBJECT TO TWO WEEKS NOTIFICATION REQUIREMENT BUT SHALL BE REPORTED TO AGENCY AT INTERVALS NOT EXCEEDING THREE MONTHS. NOTIFICATION PROVIDED FOR IN ARTICLE 6, PARAGRAPH 2 SHALL NORMALLY BE MADE AT AS EARLY A STAGE AS POSSIBLE.

2. NOTIFICATIONS UNDER ARTICLE 6, PARAGRAPHS 1(A) AND 2 SHALL INCLUDE, TO EXTENT RELEVANT, NUCLEAR AND CHEMICAL COMPOSITION, PHYSICAL FORM AND QUANTITY OF MATERIAL, TYPE AND CAPACITY OF SPECIFIED EQUIPMENT OR NUCLEAR FACILITY INVOLVED, DATE OF SHIPMENT, DATE OF RECEIPT, IDENTITY OF CONSIGNOR AND CONSIGNEE, AND ANY OTHER RELEVANT INFORMATION.

3. CONTRACTING GOVERNMENTS ALSO UNDERTAKE TO GIVE AGENCY AS MUCH ADVANCE NOTICE AS POSSIBLE OF TRANSFER OF LARGE QUANTITIES OF NUCLEAR MATERIAL, ANY NUCLEAR FACILITY OR SPECIFIED EQUIPMENT.

4. NOTIFICATION PROVIDED FOR IN ARTICLE 6, PARAGRAPH 1(B) SHALL BE MADE AT AS EARLY A STAGE AS POSSIBLE.

5. GENERAL CONTENTS, FORM AND TIMING OF NOTIFICATIONS REFERRED TO IN PARAGRAPH 4 ABOVE SHALL BE AGREED BETWEEN THE PARTIES TO THIS AGREEMENT.

ARTICLE 9

1. CONTRACTING GOVERNMENT CONCERNED SHALL NOTIFY AGENCY, BY MEANS OF ITS REPORTS PURSUANT TO SAFEGUARDS DOCUMENT, OF ANY SPECIAL FISSIONABLE MATERIAL PRODUCED DURING PERIOD COVERED BY REPORT IN OR BY USE OF ANY OF ITEMS DESCRIBED IN ARTICLE 7, PARAGRAPHS 1(A) AND (B). UPON RECEIPT OF NOTIFICATION, AGENCY SHALL LIST SUCH PRODUCED MATERIAL IN MAIN PART OF INVENTORY. AGENCY MAY VERIFY CALCULATIONS OF AMOUNTS OF SUCH MATERIAL. APPROPRIATE ADJUSTMENTS IN INVENTORY SHALL BE MADE BY AGREEMENT BETWEEN AGENCY AND CONTRACTING GOVERNMENT CONCERNED. PENDING FINAL AGREEMENT BETWEEN AGENCY AND CONTRACTING GOVERNMENT CONCERNED, AGENCY'S CALCULATIONS SHALL BE USED.

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2. CONTRACTING GOVERNMENT CONCERNED SHALL NOTIFY AGENCY, BY MEANS OF ITS REPORTS PURSUANT TO SAFEGUARDS DOCUMENT, OF ANY OTHER NUCLEAR MATERIAL REQUIRED TO BE LISTED IN THE MAIN PART OF ITS INVENTORY PURSUANT TO ARTICLE 7, PARAGRAPH 1(A) (IV). UPON RECEIPT OF NOTIFICATION, AGENCY SHALL LIST SUCH NUCLEAR MATERIAL IN MAIN PART OF INVENTORY.

ARTICLE 10

1. WHENEVER ANY ITEM LISTED IN MAIN PART OF INVENTORY FOR ONE OF SAID STATES IS TRANSFERRED TO OTHER STATE REQUIRED CHANGES SHALL BE MADE IN RESPECTIVE INVENTORIES AS OF DATE WHEN ITEM IN QUESTION HAS BEEN RECEIVED IN STATE CONCERNED PROVIDED THAT NOTIFICATION REQUIRED BY ARTICLE 6, PARAGRAPH 1 HAS BEEN RECEIVED BY AGENCY.

2. CONTRACTING GOVERNMENT CONCERNED SHALL NOTIFY AGENCY OF ANY TRANSFER OF AN ITEM LISTED IN MAIN PART OF ITS INVENTORY TO A RECIPIENT WHICH IS IN NEITHER OF SAID STATES. SUCH ITEM MAY BE TRANSFERRED, AND SHALL UPON TRANSFER BE DELETED FROM INVENTORY, ONLY IF ARRANGEMENTS HAVE BEEN MADE BY AGENCY TO APPLY SAFEGUARDS WITH RESPECT TO SUCH ITEM. WHEN ANY OF FOLLOWING ITEMS IS TRANSFERRED, CONTRACTING GOVERNMENTS SHALL JOINTLY NOTIFY AGENCY OF SUCH TRANSFER AND ITEM IN QUESTION SHALL BE DELETED FROM INVENTORY ONLY UPON RECEIPT BY AGENCY OF SUCH JOINT NOTIFICATION:

(A) URANIUM ENRICHED IN URANIUM-235 TO MORE THAN

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ACTION OES-05

INFO OCT-01 AF-06 ARA-10 EA-09 EUR-12 NEA-10 IO-11 ISO-00

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INFO AMEMBASSY BONN

AMEMBASSY BRASILIA

AMEMBASSY BUENOS AIRES

AMEMBASSY LONDON

AMEMBASSY MOSCOW

AMEMBASSY OTTAWA

AMEMBASSY PARIS

AMEMBASSY TOKYO
USMISSION BERLIN
USMISSION EC BRUSSELS
USERDA GERMANTOWN
AMCONSUL RIO DE JANEIRO

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20 PERCENT, URANIUM-233 AND PLUTONIUM, BUT EXCEPTING SMALL
QUANTITIES OF SUCH MATERIALS AS NEEDED, FOR EXAMPLE, FOR
LABORATORY PURPOSES;

(B) FUEL ELEMENT FABRICATION PLANTS FOR FABRICATION OF FUEL
ELEMENTS CONTAINING URANIUM ENRICHED IN URANIUM-235 TO MORE
THAN 20 PERCENT, URANIUM-233 OR PLUTONIUM;

(C) PLANTS FOR REPROCESSING OF IRRADIATED FUEL ELEMENTS;

(D) URANIUM ENRICHMENT PLANTS.
JOINT NOTIFICATIONS SHALL ALSO BE USED IN CASE OF TRANSFER
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OF MAJOR CRITICAL COMPONENTS OF ANY OF PLANTS REFERRED TO IN
(B), (C) AND (D) ABOVE.

3. RELEVANT TECHNOLOGICAL INFORMATION MAY BE TRANSFERRED TO
A RECIPIENT WHICH IS IN NEITHER OF SAID STATES ONLY IF AGENCY
HAS MADE ARRANGEMENTS TO APPLY SAFEGUARDS IN CONNECTION
WITH USE OF INFORMATION TRANSFERRED.

ARTICLE 11

1. WHENEVER NUCLEAR MATERIAL, SPECIFIED EQUIPMENT OR SPECIFIED
MATERIAL LISTED IN MAIN PART OF INVENTORY FOR ONE OF SAID
STATES IS TO BE TRANSFERRED TO A NUCLEAR FACILITY WITHIN THAT
STATE WHICH IS NOT YET LISTED IN THAT INVENTORY, NOTIFICATION
REQUIRED PURSUANT TO ARTICLE 6, PARAGRAPH 2 SHALL BE MADE
TO AGENCY BEFORE SUCH TRANSFER IS EFFECTED. NO SUCH TRANSFER
MAY BE MADE UNTIL AGENCY HAS CONFIRMED THAT IT HAS MADE
ARRANGEMENTS IN ACCORDANCE WITH ARTICLE 15, PARAGRAPH 2,
WITH RESPECT TO THAT FACILITY.

2. NOTIFICATION REFERRED TO IN PARAGRAPH 1 ABOVE SHALL BE
MADE TO AGENCY SUFFICIENTLY IN ADVANCE TO ENABLE AGENCY TO
MAKE ARRANGEMENTS REFERRED TO THEREIN BEFORE TRANSFER IS
EFFECTED. AGENCY SHALL PROMPTLY TAKE ANY NECESSARY ACTION.
CONTENTS OF SUCH NOTIFICATION SHALL CONFORM, AS FAR AS APPRO-
PRIATE, TO REQUIREMENTS OF ARTICLE 8, PARAGRAPH 2.

ARTICLE 12

THE AGENCY SHALL EXEMPT FROM SAFEGUARDS NUCLEAR MATERIAL UNDER CONDITIONS SPECIFIED IN PARAGRAPH 21, 22 OR 23 OF SAFEGUARDS DOCUMENT AND SHALL SUSPEND SAFEGUARDS WITH RESPECT TO NUCLEAR MATERIAL UNDER CONDITIONS SPECIFIED IN PARAGRAPH 24 OR 25 OF SAFEGUARDS DOCUMENT.

ARTICLE 13

NUCLEAR MATERIAL SHALL BE DELETED FROM RELEVANT INVENTORY AND AGENCY SAFEGUARDS THEREON SHALL BE TERMINATED AS PROVIDED FOR IN PARAGRAPHS 26 AND 27 OF SAFEGUARDS DOCUMENT. NUCLEAR FACILITIES, SPECIFIED EQUIPMENT AND SPECIFIED MATERIAL LISTED UNCLASSIFIED

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IN MAIN PART OF INVENTORY SHALL BE DELETED FROM RELEVANT INVENTORY AS AND WHEN AGENCY DETERMINES THAT SUCH NUCLEAR FACILITIES, SPECIFIED EQUIPMENT OR SPECIFIED MATERIAL HAVE BEEN CONSUMED, ARE NO LONGER USABLE FOR ANY NUCLEAR ACTIVITY RELEVANT FROM POINT OF VIEW OF SAFEGUARDS OR HAVE BECOME PRACTICALLY IRRECOVERABLE. AGENCY SHALL ALSO TERMINATE SAFEGUARDS UNDER THIS AGREEMENT ON NUCLEAR MATERIAL DELETED FROM RELEVANT INVENTORY AS PROVIDED FOR IN ARTICLE 10, PARAGRAPH 2.

PART IV
SAFEGUARDS PROCEDURES
ARTICLE 14

IN APPLYING SAFEGUARDS, AGENCY SHALL OBSERVE PRINCIPLES SET FORTH IN PARAGRAPHS 9 THROUGH 14 OF SAFEGUARDS DOCUMENT.

ARTICLE 15

1. SAFEGUARDS PROCEDURES TO BE APPLIED BY AGENCY ARE THOSE SPECIFIED IN SAFEGUARDS DOCUMENT, AS WELL AS SUCH ADDITIONAL PROCEDURES RESULTING FROM TECHNOLOGICAL DEVELOPMENTS AS MAY BE AGREED UPON BETWEEN AGENCY AND CONTRACTING GOVERNMENT CONCERNED.

2. AGENCY SHALL MAKE SUBSIDIARY ARRANGEMENTS WITH EACH CONTRACTING GOVERNMENT CONCERNING IMPLEMENTATION OF SAFEGUARDS PROCEDURES WHICH SHALL INCLUDE APPROPRIATE CONTAINMENT AND SURVEILLANCE MEASURES AS WELL AS ANY PROCEDURES NECESSARY FOR MAINTAINING AND VERIFYING CORRECTNESS OF INVENTORY WITH RESPECT TO SPECIFIED EQUIPMENT AND SPECIFIED MATERIAL.

3. AGENCY SHALL HAVE RIGHT TO REQUEST INFORMATION REFERRED TO IN PARAGRAPH 41 OF SAFEGUARDS DOCUMENT AND TO MAKE

INSPECTIONS REFERRED TO IN PRAGRAPH 51 THEREOF.

ARTICLE 16

IF BOARD DETERMINES THAT THERE HAS BEEN ANY NON-COMPLIANCE WITH THIS AGREEMENT, BOARD SHALL CALL UPON CONTRACTING GOVERNMENT CONCERNED TO REMEDY SUCH NON-COMPLIANCE FORTHWITH, AND SHALL MAKE SUCH REPORTS AS IT DEEMS APPROPRIATE. IN EVENT OF UNCLASSIFIED

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FAILURE BY CONTRACTING GOVERNMENT CONCERNED TO TAKE FULLY CORRECTIVE ACTION WITHIN A REASONABLE TIME, BOARD MAY TAKE ANY OTHER MEASURE PROVIDED FOR IN ARTICLE XII.C OF AGENCY'S STATUTE. AGENCY SHALL PROMPTLY NOTIFY BOTH CONTRACTING GOVERNMENTS IN EVENT OF ANY DETERMINATION BY BOARD PURSUANT TO PRESENT ARTICLE.

PART V
AGENCY INSPECTORS
ARTICLE 17

AGENCY INSPECTORS PERFORMING FUNCTIONS PURSUANT TO THIS AGREEMENT SHALL BE GOVERNED BY INSPECTORS DOCUMENT. HOWEVER, PARAGRAPH 4 OF INSPECTORS DOCUMENT SHALL NOT APPLY WITH REGARD TO ANY NUCLEAR FACILITY OR NUCLEAR MATERIAL TO WHICH AGENCY HAS ACCESS AT ALL TIMES IN ACCORDANCE WITH SAFEGUARDS DOCUMENT. ACTUAL PROCEDURES TO IMPLEMENT PARAGRAPH 50 OF SAFEGUARDS DOCUMENT IN FEDERATIVE REPUBLIC OF BRAZIL AND IN FEDERAL REPUBLIC OF GERMANY SHALL BE AGREED BETWEEN AGENCY AND CONTRACTING GOVERNMENT CONCERNED BEFORE NUCLEAR FACILITY OR NUCLEAR MATERIAL IS LISTED IN INVENTORY.

ARTICLE 18

CONTRACTING GOVERNMENTS SHALL APPLY RELEVANT PROVISIONS OF AGREEMENT ON PRIVILEGES AND IMMUNITIES OF AGENCY TO AGENCY INSPECTORS PERFORMING FUNCTIONS UNDER THIS AGREEMENT AND TO ANY PROPERTY OF AGENCY USED BY THEM.

PART VI
PHYSICAL PROTECTION
ARTICLE 19

EACH CONTRACTING GOVERNMENT SHALL KEEP AGENCY INFORMED OF MEASURES IT WILL TAKE FOR ENSURING PHYSICAL PROTECTION OF NUCLEAR MATERIAL, NUCLEAR FACILITIES AND SPECIFIED EQUIPMENT.

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INFO AMEMBASSY BONN

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PART VII

FINANCE

ARTICLE 20

EACH PARTY TO THIS AGREEMENT SHALL BEAR ANY EXPENSE INCURRED
IN IMPLEMENTATION OF ITS RESPONSIBILITIES UNDER THIS AGREEMENT.
HOWEVER, AGENCY SHALL REIMBURSE A CONTRACTING GOVERNMENT IN RE-
SPECT OF ANY SPECIAL EXPENSES, INCLUDING THOSE REFERRED TO IN
PARAGRAPH 6 OF INSPECTORS DOCUMENT, INCURRED BY THAT CONTRACTING
GOVERNMENT OR PERSONS UNDER ITS JURISDICTION AT WRITTEN REQUEST
OF AGENCY. SUCH REIMBURSEMENT SHALL BE DUE ONLY IF CONTRACTING
GOVERNMENT CONCERNED NOTIFIED AGENCY ACCORDINGLY BEFORE EXPENSE
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WAS INCURRED. THESE PROVISIONS SHALL NOT PREJUDICE ALLOCATION OF EXPENSES ATTRIBUTABLE TO A FAILURE BY A PARTY TO COMPLY WITH THIS AGREEMENT.

ARTICLE 21

1. CONTRACTING GOVERNMENT OF STATE CONCERNED SHALL ENSURE THAT ANY PROTECTION AGAINST THIRD-PARTY LIABILITY, INCLUDING ANY INSURANCE OR OTHER FINANCIAL SECURITY, WITH RESPECT TO A NUCLEAR INCIDENT OCCURRING IN A NUCLEAR INSTALLATION IN THAT STATE SHALL APPLY TO AGENCY AND ITS INSPECTORS WHEN CARRYING OUT THEIR FUNCTIONS UNDER THIS AGREEMENT AS THAT PROTECTION APPLIES TO ITS NATIONALS.

2. ANY CLAIM BY EITHER CONTRACTING GOVERNMENT AGAINST AGENCY OR BY AGENCY AGAINST EITHER CONTRACTING GOVERNMENT IN RESPECT OF ANY DAMAGE, OTHER THAN DAMAGE ARISING OUT OF A NUCLEAR INCIDENT, RESULTING FROM IMPLEMENTATION OF SAFEGUARDS UNDER THIS AGREEMENT, SHALL BE SETTLED IN ACCORDANCE WITH INTERNATIONAL LAW.

PART VIII

INTERPRETATION AND APPLICATION OF THE AGREEMENT AND SETTLEMENT OF DISPUTES

ARTICLE 22

AT REQUEST OF ANY OF PARTIES TO THIS AGREEMENT THERE SHALL BE CONSULTATIONS ABOUT ANY QUESTION ARISING OUT OF INTERPRETATION OR APPLICATION OF THIS AGREEMENT.

ARTICLE 23

1. PARTIES SHALL ENDEAVOR TO SETTLE BY NEGOTIATION ANY DISPUTE ARISING FROM INTERPRETATION OR APPLICATION OF THIS AGREEMENT.

2. IF A DISPUTE IS NOT SETTLED BY NEGOTIATION OR AS MAY OTHERWISE BE AGREED BY PARTIES CONCERNED, IT SHALL BE SUBMITTED, ON REQUEST OF ANY OF PARTIES CONCERNED, TO AN ARBITRAL TRIBUNAL COMPOSED AS FOLLOWS:

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(A) IF DISPUTE INVOLVES ONLY TWO OF PARTIES TO THIS AGREEMENT, ALL THREE PARTIES AGREEING THAT THIRD IS NOT CONCERNED, TWO PARTIES INVOLVED SHALL EACH DESIGNATE ONE ARBITRATOR, AND TWO ARBITRATORS SO DESIGNATED SHALL ELECT A THIRD, WHO SHALL BE CHAIRMAN. IF WITHIN THIRTY DAYS OF REQUEST FOR ARBITRATION

EITHER PARTY HAS NOT DESIGNATED AN ARBITRATOR, EITHER PARTY TO DISPUTE MAY REQUEST PRESIDENT OF INTERNATIONAL COURT OF JUSTICE TO APPOINT AN ARBITRATOR. SAME PROCEDURE SHALL APPLY IF WITHIN THIRTY DAYS OF DESIGNATION OR APPOINTMENT OF SECOND ARBITRATOR, THIRD ARBITRATOR HAS NOT BEEN ELECTED; OR

(B) IF DISPUTE INVOLVES ALL THREE PARTIES TO THIS AGREEMENT, EACH PARTY SHALL DESIGNATE ONE ARBITRATOR, AND THREE ARBITRATORS SO DESIGNATED SHALL BY UNANIMOUS DECISION ELECT A FOURTH ARBITRATOR, WHO SHALL BE CHAIRMAN, AND A FIFTH ARBITRATOR. IF WITHIN THIRTY DAYS OF REQUEST FOR ARBITRATION ANY PARTY HAS NOT DESIGNATED AN ARBITRATOR, ANY PARTY MAY REQUEST PRESIDENT OF INTERNATIONAL COURT OF JUSTICE TO APPOINT NECESSARY NUMBER OF ARBITRATORS. SAME PROCEDURE SHALL APPLY IF, WITHIN THIRTY DAYS OF DESIGNATION OR APPOINTMENT OF THIRD OF FIRST THREE ARBITRATORS, CHAIRMAN OR FIFTH ARBITRATOR HAS NOT BEEN ELECTED.

3. A MAJORITY OF MEMBERS OF THE ARBITRAL TRIBUNAL SHALL CONSTITUTE A QUORUM, AND ALL DECISIONS SHALL REQUIRE CONCURRENCE OF AT LEAST A MAJORITY. ARBITRAL PROCEDURE SHALL BE FIXED BY TRIBUNAL. DECISIONS OF TRIBUNAL, INCLUDING ALL RULINGS CONCERNING ITS CONSTITUTION, PROCEDURE, JURISDICTION AND DIVISION OF EXPENSES OF ARBITRATION BETWEEN PARTIES SHALL BE BINDING ON ALL PARTIES. REMUNERATION OF ARBITRATORS SHALL BE DETERMINED ON SAME BASIS AS THAT OF AD HOC JUDGES OF INTERNATIONAL COURT OF JUSTICE.

ARTICLE 24

DECISIONS OF BOARD CONCERNING IMPLEMENTATION OF THIS AGREEMENT, EXCEPT SUCH AS RELATE ONLY TO ARTICLES 20 AND 21, SHALL, IF THEY SO PROVIDE, BE GIVEN EFFECT IMMEDIATELY BY PARTIES, PENDING FINAL SETTLEMENT OF ANY DISPUTE.

PART IX

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FINAL CLAUSES

ARTICLE 25

ANY AMENDMENT OF THIS AGREEMENT SHALL REQUIRE CONSENT OF PARTIES. IF AGENCY MODIFIES SAFEGUARDS DOCUMENT, SCOPE OF SAFEGUARDS SYSTEM OR INSPECTORS DOCUMENT, THIS AGREEMENT SHALL BE AMENDED IF BOTH CONTRACTING GOVERNMENTS SO REQUEST IN ORDER TO TAKE ACCOUNT OF ANY OR ALL SUCH MODIFICATIONS. SUCH EXTENSIONS OF SAFEGUARDS DOCUMENT AS MAY BE APPROVED BY BOARD TO PROVIDE FOR SPECIAL SAFEGUARDS PROCEDURES IN RESPECT OF PLANTS FOR SEPARATING ISOTOPES OF NUCLEAR MATERIAL SHALL BE APPLICABLE UNDER THIS AGREEMENT.

ARTICLE 26

THIS AGREEMENT SHALL ALSO APPLY TO BERLIN (WEST), PROVIDED THAT GOVERNMENT OF FEDERAL REPUBLIC OF GERMANY DOES NOT MAKE A CONTRARY DECLARATION TO DIRECTOR GENERAL OF AGENCY AND TO GOVERNMENT OF FEDERATIVE REPUBLIC OF BRAZIL WITHIN THREE MONTHS OF DATE OF ENTRY INTO FORCE OF THIS AGREEMENT.

ARTICLE 27

THIS AGREEMENT SHALL ENTER INTO FORCE UPON SIGNATURE BY OR FOR DIRECTOR GENERAL OF AGENCY, BY AUTHORIZED REPRESENTATIVE OF GOVERNMENT OF FEDERATIVE REPUBLIC OF BRAZIL AND BY AUTHORIZED REPRESENTATIVE OF GOVERNMENT OF FEDERAL REPUBLIC OF GERMANY.

ARTICLE 28

1. THIS AGREEMENT SHALL REMAIN IN FORCE UNTIL, IN ACCORDANCE WITH THIS AGREEMENT:

(A) SAFEGUARDS HAVE BEEN TERMINATED ON ALL NUCLEAR MATERIAL, INCLUDING SUBSEQUENT GENERATIONS OF PRODUCED SPECIAL FISSION-ABLE MATERIAL, SUBJECT TO SAFEGUARDS UNDER THIS AGREEMENT; AND

(B) ALL OTHER ITEMS HAVE BEEN DELETED FROM INVENTORIES.

2. IF, AFTER THIS AGREEMENT HAS CEASED TO BE IN FORCE, A NUCLEAR FACILITY OR SPECIFIED EQUIPMENT IS DESIGNED, CON-UNCLASSIFIED

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STRUCTURED OR OPERATED IN EITHER STATE ON BASIS OF OR BY USE OF RELEVANT TECHNOLOGICAL INFORMATION TRANSFERRED FROM OTHER, THIS AGREEMENT SHALL FORTHWITH BE REINSTATED.

ARTICLE 29

1. WITH RESPECT TO FEDERAL REPUBLIC OF GERMANY, PROVISIONS OF TREATY OF 1 JULY 1968 ON NON-PROLIFERATION OF NUCLEAR WEAPONS AS WELL AS OF TREATIES ESTABLISHING EUROPEAN ECONOMIC COMMUNITY AND EUROPEAN ATOMIC ENERGY COMMUNITY AND OF AGREEMENT OF 5 APRIL 1973 IN IMPLEMENTATION OF ARTICLE III(1) AND (4) OF THE TREATY ON NON-PROLIFERATION OF NUCLEAR WEAPONS SHALL NOT BE AFFECTED BY THIS AGREEMENT.

2. THE SAID AGREEMENT OF 5 APRIL 1973 SHALL, AS LONG AS IT REMAINS IN FORCE, HAVE EFFECT OF SUSPENDING APPLICATION OF SAFEGUARDS UNDER THIS AGREEMENT IN FEDERAL REPUBLIC OF GERMANY.LABOWITZ

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